



Reprinted  
April 12, 2001

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## ENGROSSED HOUSE BILL No. 1958

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DIGEST OF HB 1958 (Updated April 11, 2001 3:05 PM - DI 77)

**Citations Affected:** IC 24-5; IC 27-8; IC 27-13; noncode.

**Synopsis:** Prescription discount and benefit cards. Provides that a person may not sell, market, promote, advertise, or distribute a card, device, or other purchasing mechanism that is not insurance that purports to offer discounts or access to discounts from a pharmacy for prescription drug or device purchases if certain conditions exist. Provides penalties for violations. Establishes uniform requirements for prescription drug information or other technology issued by an insurer, a health maintenance organization, or certain other entities. Provides that prescription drug cards do not have to be issued more than every 12 months.

**Effective:** July 1, 2001.

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### Brown C, Becker

(SENATE SPONSORS — JOHNSON, ROGERS, SIMPSON)

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January 17, 2001, read first time and referred to Committee on Public Health.  
February 14, 2001, amended, reported — Do Pass.  
February 19, 2001, read second time, ordered engrossed.  
February 20, 2001, engrossed. Read third time, passed. Yeas 94, nays 0.

#### SENATE ACTION

February 27, 2001, read first time and referred to Committee on Health and Provider Services.  
April 5, 2001, amended, reported favorably — Do Pass.  
April 11, 2001, read second time, amended, ordered engrossed.

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EH 1958—LS 7614/DI 77+



Reprinted  
April 12, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## ENGROSSED HOUSE BILL No. 1958

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 24-5-21 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2001]:

4 **Chapter 21. Prescription Drug Discount Cards**

5 **Sec. 1. This chapter does not apply to the following:**

- 6 (1) Eye or vision care services, glasses, or contact lenses  
7 provided by an optometrist or ophthalmologist.  
8 (2) A card, device, or other purchasing mechanism that is not  
9 insurance but that is administered in conjunction with a  
10 health or medical benefit by an insurance company, a  
11 nonprofit health service plan corporation, or a health  
12 maintenance organization.  
13 (3) A benefit administered by or under contract with the state  
14 of Indiana.  
15 (4) A customer discount or membership card issued by a store  
16 or buying club for use at that store or buying club.  
17 **Sec. 2. As used in this chapter, "person" has the meaning set**

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1 forth in IC 24-5-0.5-2.

2       **Sec. 3.** A person may not sell, market, promote, advertise, or  
 3 distribute a card, device, or other purchasing mechanism that  
 4 purports to offer discounts or access to discounts from a pharmacy  
 5 for prescription drug or device purchases in the following  
 6 situations:

7       (1) The card, device, or other purchasing mechanism does not  
 8 expressly state in bold and prominent type, which is  
 9 prominently placed, that the discounts are not insurance.

10       (2) The discounts are not specifically authorized by an  
 11 individual and separate contract with each pharmacy listed  
 12 with the card, device, or other purchasing mechanism.

13       (3) The discounts or access to discounts offered, or the range  
 14 of discounts or access to the range of discounts offered are  
 15 deceptive or misleading.

16       **Sec. 4.** A person who is not exempt under section 1 of this  
 17 chapter and who sells, markets, promotes, advertises, or distributes  
 18 a card, device, or other purchasing mechanism that purports to  
 19 offer discounts or access to discounts from a pharmacy for  
 20 prescription drug or device purchases shall designate a resident in  
 21 Indiana as an agent for service of process and register the agent  
 22 with the secretary of state.

23       **Sec. 5.** A contract entered into to purchase a card, device, or  
 24 other purchasing mechanism that purports to offer discounts or  
 25 access to discounts from a pharmacy for prescription drug or  
 26 device purchases that does not comply with this chapter is voidable  
 27 by the purchaser.

28       **Sec. 6. (a)** The attorney general, a prosecuting attorney, or an  
 29 individual may maintain an action to enjoin any act that is in  
 30 violation of this chapter and for the recovery of damages.

31       (b) An action brought under this section may be brought in the  
 32 county where:

33       (1) the plaintiff resides or conducts business;

34       (2) the defendant resides or conducts business; or

35       (3) the card, device, or other purchasing mechanism that  
 36 purports to offer discounts or access to discounts from a  
 37 pharmacy for prescription drug or device purchases was sold,  
 38 marketed, promoted, advertised, or distributed.

39       (c) If the court finds that the defendant violated any provision  
 40 of this chapter, the court shall enjoin the defendant from  
 41 continuing the acts that are in violation of this chapter.

42       (d) A plaintiff who prevails in an action under this chapter may



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1 recover the following:

- 2 (1) A sum equal to one hundred dollars (\$100) per card,
- 3 device, or other purchasing mechanism that is sold or
- 4 distributed in Indiana by the defendant or ten thousand
- 5 dollars (\$10,000), whichever is greater.
- 6 (2) Three (3) times the amount of actual damages, if any.
- 7 (3) Reasonable attorney's fees.
- 8 (4) Court costs.
- 9 (5) Any other relief that the court considers proper.

10 Sec. 7. (a) The provisions of this chapter are not exclusive and  
11 do not relieve a person from compliance with other applicable  
12 provisions of law.

13 (b) The penalties in this chapter are cumulative and in addition  
14 to any other applicable penalties.

15 (c) A person that violates this chapter is subject to the penalties  
16 set forth in IC 24-5-0.5.

17 (d) All actions brought under this chapter must be brought  
18 within two (2) years after the date on which the violation of this  
19 chapter occurred.

20 SECTION 2. IC 27-8-5.8 IS ADDED TO THE INDIANA CODE  
21 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
22 JULY 1, 2001]:

23 **Chapter 5.8. Insurance Benefit Cards**

24 Sec. 1. As used in this chapter, "accident and sickness insurance  
25 policy" means an insurance policy that provides at least one (1) of  
26 the types of insurance described in IC 27-1-5-1, Classes 1(b) and  
27 2(a), and is issued on a group basis. The term does not include the  
28 following:

- 29 (1) Accident only, credit, dental, vision, Medicare, Medicare
- 30 supplement, long term care, or disability income insurance.
- 31 (2) Coverage issued as a supplement to liability insurance.
- 32 (3) Automobile medical payment insurance.
- 33 (4) A specified disease policy.
- 34 (5) A limited benefit health insurance policy.
- 35 (6) A short term insurance plan that:
- 36 (A) may not be renewed; and
- 37 (B) has a duration of not more than six (6) months.
- 38 (7) A policy that provides a stipulated daily, weekly, or
- 39 monthly payment to an insured during hospital confinement,
- 40 without regard to the actual expense of the confinement.
- 41 (8) Worker's compensation or similar insurance.
- 42 (9) A student health insurance policy.



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1       Sec. 2. As used in this chapter, "commissioner" means the  
2 insurance commissioner appointed under IC 27-1-1-2.

3       Sec. 3. As used in this chapter, "insured" means an individual  
4 who is entitled to coverage under an accident and sickness  
5 insurance policy.

6       Sec. 4. (a) This section applies to an insurer that:

- 7           (1) issues an accident and sickness insurance policy that
- 8           provides coverage for prescription drugs or devices; and
- 9           (2) issues a card or other technology for claims processing.

10       This section also applies to a third party administrator for  
11 self-insured plans, a pharmacy benefit manager, or a health benefit  
12 plan administered by the state if the administrator, manager, or  
13 plan issues a card or other technology described in subdivision (2).

14       (b) The card or other technology issued by an insurer or another  
15 entity referred to in subsection (a) must contain uniform  
16 prescription drug information that complies with the requirements  
17 established under subsection (c).

18       (c) Prescription drug information cards or other technology  
19 must meet either of the following criteria:

- 20           (1) Be in a format and contain information fields approved by
- 21           the National Council for Prescription Drug Programs
- 22           (NCPDP) as contained in the National Council for
- 23           Prescription Drug Programs Pharmacy ID Card
- 24           Implementation Guide in effect on the October 1 most
- 25           immediately preceding the issuance of the card.

- 26           (2) Contain the following information:

- 27               (A) The health benefit plan's name.
- 28               (B) The insured's name, group number, and identification
- 29               number.
- 30               (C) A telephone number to inquire about pharmacy related
- 31               issues.
- 32               (D) The issuer's international identification number or
- 33               ANSI BIN number, labeled as RxBIN.
- 34               (E) The processor control number, labeled as RxPCN.
- 35               (F) The insured's pharmacy benefits group number if
- 36               different than medical group number, labeled as RxGRP.

- 37           (3) Only those fields listed in (A) through (F) above that are
- 38           required for proper adjudication of the claim must appear on
- 39           the card. If the card is used to adjudicate non-pharmacy
- 40           claims, then the designation "Rx" listed in the fields (D)
- 41           through (F) is not required to be utilized by the issuer.

- 42           (d) An insurer its agents, contractors, or administrators,



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including pharmacy benefits managers, may not be required to issue a prescription drug information card or other technology to a person more than one (1) time during a twelve (12) month period.

(e) The prescription drug information cards or other technology issued under this section may be used for health insurance coverage other than the coverage to which this chapter applies.

SECTION 3. IC 27-13-9-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 5. (a) This section applies to a health maintenance organization that provides coverage for prescription drugs or devices and issues a card or other technology for claims processing.**

**(b) The card or other technology issued by a health maintenance organization must contain uniform prescription drug information that complies with the requirements established under subsection (c).**

**(c) Prescription drug information cards or other technology must meet either of the following criteria:**

**(1) Be in a format and contain information fields approved by the National Council for Prescription Drug Programs (NCPDP) as contained in the National Council for Prescription Drug Programs Pharmacy ID Card Implementation Guide in effect on the October 1 most immediately preceding the issuance of the card.**

**(2) Contain the following information:**

**(A) The health benefit plan's name.**

**(B) The enrollee's name, group number, and identification number.**

**(C) A telephone number to inquire about pharmacy related issues.**

**(D) The issuer's international identification number or ANSI BIN number, labeled as RxBIN.**

**(E) The processor control number, labeled as RxPCN.**

**(F) The insured's pharmacy benefits group number if different than medical group number, labeled as RxGRP.**

**(3) Only those fields listed in (A) through (F) above that are required for proper adjudication of the claim must appear on the card. If the card is used to adjudicate non-pharmacy claims, then the designation "Rx" listed in the fields (D) through (F) is not required to be utilized by the issuer.**

**(d) A health maintenance organization may not be required to issue a prescription drug information card or other technology to a person more than one (1) time during a twelve (12) month period.**



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1       (e) The prescription drug information cards or other technology  
2 issued under this section may be used for health care service  
3 coverage other than the coverage to which this chapter applies.

4       SECTION 4. [EFFECTIVE JULY 1, 2001] (a) Notwithstanding  
5 IC 27-8-5.8 and IC 27-13-9-5, both as added by this act, an insurer  
6 or a health maintenance organization its agents, contractors, or  
7 administrators, including pharmacy benefits managers, is not  
8 required to issue prescription drug information cards or other  
9 technology that meet the requirements established under  
10 IC 27-8-5.8 and IC 27-13-9-5, both as added by this act, for a  
11 contract issued or renewed before July 1, 2002.

12       (b) This SECTION expires July 1, 2002.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1958, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 18, delete "shall" and insert "**may**".

Page 4, line 18, after "IC 4-22-2" insert "**that are necessary**".

Page 4, line 20, delete "The rules adopted under this subsection".

Page 4, line 21, delete "must require that prescription" insert "**Prescription**".

Page 4, line 22, after "technology" insert "**must**".

Page 4, line 22, after "meet" insert "**either of**".

Page 4, line 30, delete "required by the commissioner." and insert "**necessary for the proper adjudication of claims.**".

Page 4, between lines 30 and 31, begin a new paragraph and insert:

**"(d) An insurer may not be required to issue a prescription drug information card or other technology to a person more than one (1) time during a twelve (12) month period."**

Page 4, line 31, delete "(d)" and insert "(e)".

Page 5, line 1, delete "shall" and insert "**may**".

Page 5, line 3, delete ". The rules adopted under this subsection" and insert "**that**".

Page 5, line 4, delete "must".

Page 5, line 4, delete "that".

Page 5, line 5, after "meet" insert "**either of**".

Page 5, line 13, delete "required by the commissioner." and insert "**necessary for the proper adjudication of claims.**".

Page 5, between lines 13 and 14, begin a new paragraph and insert:

**"(d) A health maintenance organization may not be required to issue a prescription drug information card or other technology to a person more than one (1) time during a twelve (12) month period."**

Page 5, line 14, delete "(d)" and insert "(e)".

Page 5, line 22, delete "until April" and insert "**for a contract issued or renewed before July**".

Page 5, line 23, delete "April" and insert "**July**".

and when so amended that said bill do pass.

(Reference is to HB 1958 as introduced.)

BROWN C, Chair

Committee Vote: yeas 12, nays 0.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1958, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 16, delete ",".

Page 2, line 17, after "chapter" delete "," and insert "**and**".

Page 2, line 40, after "chapter" insert ",".

Page 3, line 4, after "Indiana" insert "**by the defendant**".

Page 3, line 14, after "any" insert "**other**".

Page 3, line 20, delete "IC 27-8-5.7" and insert "IC 27-8-5.8".

Page 3, line 23, delete "5.7" and insert "**5.8**".

Page 4, line 23, delete ",".

Page 4, line 24, delete ",".

Page 4, line 25, after "(NCPDP)" insert "**as contained in the National Council for Prescription Drug Programs Pharmacy ID Card Implementation Guide in effect on the October 1 most immediately preceding the issuance of the card**".

Page 4, line 27, delete "insured" and insert "**health benefit plan's name and**".

Page 4, line 28, delete "payer" and insert "**insured's name, group number, and**".

Page 4, line 29, delete "insured copayment or cash discount amount" and insert "**help desk telephone numbers**".

Page 5, line 10, delete ",".

Page 5, line 11, delete ",".

Page 5, line 12, after "(NCPDP)" insert "**as contained in the National Council for Prescription Drug Programs Pharmacy ID Card Implementation Guide in effect on the October 1 most immediately preceding the issuance of the card**".

Page 5, line 14, delete "enrollee" and insert "**health benefit plan's name and**".

Page 5, line 15, delete "payer" and insert "**enrollee's name, group number, and**".

Page 5, line 16, delete "enrollee copayment or cash discount amount" and insert "**help desk telephone numbers**".

Page 5, line 26, delete "IC 27-8-5.7" and insert "**IC 27-8-5.8**".

Page 5, line 26, before "as" insert "**both**".

Page 5, line 29, delete "IC 27-8-5.7" and insert "**IC 27-8-5.8**".

Page 5, line 30, before "as" insert "**both**".

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and when so amended that said bill do pass.

(Reference is to HB 1958 as printed February 15, 2001.)

MILLER, Chairperson

Committee Vote: Yeas 8, Nays 0.

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## SENATE MOTION

Mr. President: I move that Engrossed House Bill 1958 be amended to read as follows:

Page 4, line 18, delete "The commissioner may adopt rules under IC 4-22-2 that are".

Page 4, delete line 19.

Page 4, line 20, delete "information cards or other technology."

Page 4, line 30, delete "and identification" and insert ".".

Page 4, delete line 31.

Page 4, line 34, delete "The help desk telephone numbers." and insert **"A telephone number to inquire about pharmacy related issues."**

Page 4, line 35, delete "Other information necessary for the proper" and insert **"The issuer's international identification number or ANSI BIN number, labeled as RxBIN."**

Page 4, delete line 36.

Page 4, between lines 36 and 37, begin a new line block indented and insert:

**"(E) The processor control number, labeled as RxPCN.**

**(F) The insured's pharmacy benefits group number if different than medical group number, labeled as RxGRP.**

**(3) Only those fields listed in (A) through (F) above that are required for proper adjudication of the claim must appear on the card. If the card is used to adjudicate non-pharmacy claims, then the designation "Rx" listed in the fields (D) through (F) is not required to be utilized by the issuer."**

Page 4, line 37, after "insurer" insert **"its agents, contractors, or administrators, including pharmacy benefits managers,"**

Page 5, line 10, delete "The commissioner may adopt rules under IC 4-22-2 to".

Page 5, delete line 11.

Page 5, line 12, delete "cards or other technology that require prescription" and insert **"Prescription"**.

Page 5, line 13, after "technology" insert **"must"**.

Page 5, line 22, delete "and identification" and insert ".".

Page 5, delete line 23.

Page 5, line 26, delete "The help desk telephone numbers." and insert **"A telephone number to inquire about pharmacy related issues."**

Page 5, line 27, delete "Other information necessary for the proper" and insert **"The issuer's international identification number or**

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**ANSI BIN number, labeled as RxBIN."**

Page 5, delete line 28.

Page 5, between lines 28 and 29, begin a new line block indented and insert:

**"(E) The processor control number, labeled as RxPCN.**

**(F) The insured's pharmacy benefits group number if different than medical group number, labeled as RxGRP.**

**(3) Only those fields listed in (A) through (F) above that are required for proper adjudication of the claim must appear on the card. If the card is used to adjudicate non-pharmacy claims, then the designation "Rx" listed in the fields (D) through (F) is not required to be utilized by the issuer."**

Page 5, line 37, after "organization" insert **"its agents, contractors, or administrators, including pharmacy benefits managers,"**.

(Reference is to EHB 1958 as printed April 6, 2001.)

JOHNSON

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